

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICKY LYNCH, JERRY FINCH, JR.,
DAMIEN R. SMALL, LEROY C. JONES,
CHARLES WHIDBEE, THEODORE DAVIS,
MACK BUTLER, EDDIE M. SIMS, DALLAS
JOHNSON, CHRISTOPHER SYDNOR,
DONDI W. JACKSON, FELIPE ROVELO,
ROBERT BERNHARD, ADAM WILLIAMS,
JOSEPH POTTER, JR., DONALD BANGS,
EDWARD KEYES, JASON COOPER,
KEVIN M. MASSEY, DARRYL ISSAC,
CALVIN FELDER, ANDREW ZEIGLER,
CHESTER INGRAM, DONNELL STENGLE,
KEVIN KING, HOWARD DAVIS,
and THOMAS HARPER,

MEMORANDUM AND ORDER
11-CV-2602(JS)(ARL)

Plaintiffs,

-against-

VINCENT F. DEMARCO, individually and
in his official capacity as Sheriff
of County, JOHN DOE and JANE DOE,
individually and in their official
capacity as Superintendent of Suffolk
County,

Defendants.

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APPEARANCES:

For Plaintiffs:

Ricky Lynch, 092440, Pro Se
Jerry Finch, Jr., 129721, Pro Se
Damien R. Small, 398042, Pro Se
Leroy C. Jones, 561389, Pro Se
Charles Whidbee, 427429, Pro Se
Theodore Davis, 458723, Pro Se
Mack Butler, 217709, Pro Se
Eddie M. Sims, 214999, Pro Se
Dallas Johnson, 226119, Pro Se
Christopher Sydnor, 386633, Pro Se
Dondi W. Jackson, 614336, Pro Se
Felipe Roveló, 307673, Pro Se
Robert Bernhard, 461440, Pro Se
Adam Williams, 420457, Pro Se
Joseph Potter, Jr., 593845, Pro Se
Donald Bangs, 461230, Pro Se
Edward Keyes, 642771, Pro Se
Jason Cooper, 410349, Pro Se
Kevin M. Massey, 475278, Pro Se
Darryl Issac, 609461, Pro Se
Calvin Felder, 883549, Pro Se
Andrew Zeisler, 145163, Pro Se
Chester Ingram, 482062, Pro Se

Donnell Stengle, 390859, Pro Se
Kevin King, 436156, Pro Se
Howard Davis, 459277, Pro Se
Thomas Harper, 398810, Pro Se

SUFFOLK COUNTY CORRECTIONAL FACILITY
100 Center Drive
Riverhead, NY 11901

For Defendants: No appearances

SEYBERT, District Judge:

Presently pending before the Court is the pro se Complaint brought by the above-named twenty-seven incarcerated individuals (collectively, "Plaintiffs") brought pursuant to 42 U.S.C. § 1983 ("Section 1983"), accompanied by applications to proceed in forma pauperis for each individual.¹ Upon review of the declarations in support of each application to proceed in forma pauperis, the Court determines that the Plaintiffs' financial status qualifies them to commence this action without prepayment of the \$350.00 filing fee. See 28 U.S.C. §§ 1914(a); 1915(a)(1). Therefore, Plaintiffs' requests to proceed in forma pauperis are GRANTED.

Plaintiffs have also moved for certification of their case as a class action. The motion is DENIED. As Plaintiffs are proceeding pro se, they cannot represent anyone other than themselves. See, e.g., Moore v. T-Mobile USA, No. 10-CV-0527 (SLT)(CLP), 2011 WL 609818, *6 (E.D.N.Y. Feb. 15, 2011) ("[Plaintiff] cannot convert this action to a class action because he is proceeding pro se, and a pro se litigant cannot represent anyone other than himself or herself.") (citing Cheung v. Youth Orchestra Found. of Buffalo, Inc., 906 F.2d 59, 61 (2d Cir. 1990)).

Having reviewed the pro se Complaint, the undersigned declines

¹ The Court notes that the Complaint was initially brought by the first twenty (20) individuals listed as plaintiffs. In accordance with this Court's June 10, 2011 Order, the Complaint is deemed amended to include the additional seven individuals as plaintiffs.

to conclude at this stage that the within action is frivolous or malicious within the meaning of 28 U.S.C. § 1915. While it may be that Plaintiffs are unable to prevail on their claims, the Court's uncertainty does not justify dismissal at this early juncture. McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004). Accordingly, the applications to proceed in forma pauperis are GRANTED and the Court orders service of the Complaint without prepayment of the filing fee in total sum of \$350.00.

The Clerk of the Court is directed to forward to the United States Marshal for the Eastern District of New York copies of Plaintiffs' Summons, Complaint, and this Order for service upon the Defendants without prepayment of fees. Furthermore, the Clerk must mail a copy of this Order to the Plaintiffs. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: June 23, 2011
Central Islip, New York